

**Localism Task Force ) FCC Docket No. RM-10803**

## TABLE OF CONTENTS

	<i><u>Page</u></i>
<b>IDENTIFICATION OF THE COMMENTER</b>	<b>2</b>
<b>A CALL FOR ACTION ON LOW POWER <i>AM</i> RADIO</b>	<b>3</b>
<b>A LIST OF OTHER RECOMMENDATIONS</b>	<b>4</b>
<b>5 Public Policy Proposals To Provide Expedited Relief For Low Power FM Stations, Local FM Translators and Certain Other Radio Stations</b>	<b>7</b>
<b>12 Other Recommendations For Action By The FCC</b>	<b>9</b>
<b>4 Actions Which The FCC Should Urge Congress To Take</b>	<b>11</b>
<b>CONCLUSIONS</b>	<b>12</b>

THE AMHERST ALLIANCE is a Net-based, nationwide advocacy group for media reform in general and Low Power Radio in particular. Our Members include currently licensed Low Power FM (LPFM) broadcasters, aspiring LPFM broadcasters, aspiring Low Power AM (LPAM) broadcasters, current Part 15 AM broadcasters, current Internet broadcasters, current Amateur Radio Service operators, broadcast engineers and concerned citizens.

While we know there is more to promoting localism than Low Power Radio alone, we also know that radio doesn't get any more local than Low Power. With a maximum signal radius of 3 to 5 miles, and a regulatory requirement that LPFM broadcasters must live near their service areas, Low Power Radio stations *have* to be locally oriented if they're going to get on the air and stay on the air.

Reverend William Balsley -- whose Universal Life Church, of Visalia, California, has one of the most freshly minted LPFM licenses in the country -- has even come up with a new slogan for us:

“LPFM means *Local* Power FM!!”

The only amendment we would make would be an addition:

“LPAM means Local Power *AM!!*”

In most of our nation's large metropolitan areas, Low Power AM may be the *only* way to add a substantial number of small, local radio stations to the airwaves.

## **A CALL FOR ACTION ON LOW POWER *AM* RADIO**

THE AMHERST ALLIANCE filed its first Written Comments in the Localism Task Force Docket (RM-10803) on October 27, 2003. Those Written Comments were focused exclusively on a recently filed Petition For Rulemaking that would establish a new Low Power *AM* Radio Service.

In these Written Comments, we noted the existence of this Petition For Rulemaking, which was filed with the FCC by FRED BAUMGARTNER, C.P.B.E. of Colorado. Mr. Baumgartner is a nationally known and respected broadcast engineer, who has served as both a regional officer and a national officer in THE SOCIETY OF PROFESSIONAL BROADCAST ENGINEERS.

On October 22, 2003, Mr. Baumgartner joined NICKOLAUS E. LEGGETT of Virginia, a pioneer in the establishment of a Low Power *FM* Radio Service, in filing Written Comments which placed the Low Power *AM* Petition For Rulemaking into the record of FCC Docket RM-10803. Messrs. Leggett and Baumgartner rightly concluded that a Petition to establish "Local Power *AM*" is a timely and relevant agenda item for the FCC's Localism Task Force.

THE AMHERST ALLIANCE rushed into Docket RM-10803, on October 27, 2003, with Written Comments that expressed our strong support for swift and intensive Commission consideration of the Baumgartner LPAM Petition.

In these Written Comments, we consciously withheld any judgment on *the details* of the Baumgartner LPAM Petition -- pending evaluation of the Petition, and the development of recommended policy positions, by our special LPAM TASK FORCE, which is chaired by Amherst Member KYLE DRAKE of Minnesota.

However, while withholding our input on the details (for now), we strongly urged the Localism Task Force to begin *the process* of deliberating upon the Baumgartner LPAM Petition. The current Localism Task Force proceedings, in Docket RM-10803, appear to constitute an excellent venue for gathering and evaluating input on the Petition from various interested parties.

#### **A LIST OF OTHER RECOMMENDATIONS**

As we noted above, Amherst chose to act *immediately* once the Baumgartner LPAM Petition had been placed within the Localism Task Force Docket, by Messrs. Baumgartner, on October 22, 2003. Nevertheless, our strong support for *the process* of considering the Baumgartner LPAM Petition did not exhaust our supply of policy recommendations for the Localism Task Force.

Low Power Radio, aka "Local Power Radio", is about as local as radio gets. Low Power Radio cannot be ignored in any effort to increase the degree of localism in broadcasting. It has be one of the *key* building blocks -- if not the cornerstone.

Overall, right now, Job One for the Localism Task Force has to be protecting Low Power Radio from shrinking -- in the face of proliferating “satellators”, and other “long distance translators”, as well as serious interference from In Band On Channel (IBOC) Digital Radio.

Job Two has to be helping Low Power Radio to *grow* -- through adjacent channel spacing reform, establishment of a Low Power *AM* Radio Service and other important steps.

Low Power FM today, and Low Power AM tomorrow, are essential elements for restoring and enhancing localism. Yes, *other* policies can and should be added to support for Low Power Radio and/or built around support for Low Power Radio. Still, as a starting point for reform, who could be closer to the grassroots of America than we are?

In any case: Amherst commends FCC Chairman Michael Powell, and the other FCC Commissioners, for establishing the Localism Task Force. We also commend the leaders and members of the Localism Task Force for mobilizing so quickly -- *and* for wisely initiating 5 regional Hearings to supplement the Hearings in Washington, D.C.

However, we stress that the road to reform is a multi-faceted path, requiring multiple initiatives. In addition, some of the steps on the path must be taken *now* -- if the Commission want to fully preserve the degree of localism that still exists.

Amherst's recommendations to the Task Force fall into 3 categories.

*First*, we offer 5 public policy proposals to provide *expedited relief* for LPFM stations, *local* FM translator stations and other radio stations as which are vulnerable to the proliferation of "satellators", and other long distance translators, and/or to interference from In Band On Channel (IBOC) Digital Radio broadcasts.

Because the requested relief cannot wait until the completion of Task Force proceedings in the summer of 2004, and the issuance of final rules at some indefinite date after that, we urge the full Commission to act on the 5 proposals in the *immediate* future.

These 5 proposals are also set forth in a 52-party Petition For Expedited Relief, Through Rulemaking, which is being express mailed to the FCC's Office of the Secretary -- via the FCC's Capitol Heights facility. A copy of this Petition has also been filed in the FCC's IBOC Digital Radio Docket (99-325) and in the Localism Task Force Docket as well. The copy of the Petition for FCC Docket RM-10803 is contained in Joint Written Comments of November 14, 2003, filed by THE AMHERST ALLIANCE and 51 other Petitioning parties.

*Second*, we offer 12 other proposals for regulatory action which are also important -- but not as *urgent* as the first 5 proposals. This second group of proposals can be pursued by the Localism Task Force, and/or by other arms of the full Commission, at a somewhat more deliberate pace.

*Third*, we offer 4 proposals on which, as a legal matter or a practical matter, only Congress can take action. We urge the Commission to urge swift action on these proposals by our national legislators.

**5 Public Policy Proposals To Provide Expedited Relief  
For Low Power FM Stations, Local FM Translator Stations  
And Certain Other Radio Stations**

We respectfully request action by the full Commission, in the *immediate* future, to adopt the 5 public policy initiatives which are set forth below.

For purposes of implementing the new translator regulation policies, in Items 1 through 3, Amherst defines a non-satellite “long distance translator” as one which is located: (a) over 60 miles (100 kilometers) from the point of signal origin, for translators based East of the Mississippi (with “W” call letters); (b) over 120 miles (200 kilometers) from the point of signal origin, for translators based West of the Mississippi (with “K” call letters); or (c) over 240 miles (400 kilometers) for translators in Alaska.

The 5 proposals for expedited relief are as follows:

- (1) A “freeze” on the issuance of licenses for new satellite-fed translator stations (aka “satellators”) and other long distance translators
- (2) Establishment of a new, Tertiary Service Status for all of the above-referenced satellators and long distance translators
- (3) Assignment of Primary Service Status to all Low Power FM Radio stations, including LP-10 stations
- (4) Initiation of an immediate FCC investigation into abuses and improprieties in current translator stations, including redundant applications (several frequencies sought for a single station in a single market) and misrepresentation of local sponsorship

*And*

- (5) Pending the Commission’s comprehensive reconsideration of the IBOC version of Digital Radio, establishment of emergency relief procedures for adversely affected stations, through which such stations may petition for proportionate increases in wattage and/or tower height, in order to compensate for the erosion of their service areas by IBOC interference

Other, less time-sensitive proposals to assure greater localism in broadcasting can be considered by the Localism Task Force at a more deliberate pace.



### **12 Other Recommendations For Regulatory Action By The FCC**

We also urge the Commission to take the following other actions, in addition to the previously recommended startup of deliberations on the Baumgartner LPAM Petition:

- (6) Suspension or revocation of the Commission's "interim authorization" of IBOC Digital Radio -- while the Commission conducts a *competitive comparison*, including comprehensive testing and evaluation, of IBOC Digital Radio in contrast to alternative technologies (including the new CAM-D technology for the AM Band, as developed by KAHN COMMUNICATIONS of New York ... Digital Radio Mondiale... Eureka-147 ... and classic Analog Radio)
- (7) Establishment of a (low) numerical ceiling on the number of translators a single institution can possess, as recommended by MEDIA ACCESS PROJECT in October 14, 2003 Written Comments, filed in FCC Docket 99-25, on behalf of THE PROMETHEUS RADIO PROJECT and 5 other "core non-profit advocates of LPFM"
- (8) As recommended by REC NETWORKS of Arizona, an end to the FCC's requirement that LPFM stations must protect the second adjacent channel of translators
- (9) Reversal of the FCC's recent mass dismissal of 400 Low Power FM applications -- due to the application of adjacent channel spacing standards which may soon be repealed in response to MITRE Corporation's Report to the FCC
- (10) Establishment of *LP-250* stations, with power levels of up to 250 watts and/or tower heights of up to 100 meters, in areas with low population density *only*
- (11) Adjustment of the current "points formula" for awarding LPFM licenses to end the bias against newcomers -- by assigning more weight to quality and diversity of programming than to the sponsor's status as an "established community organization"

- (12) Adjustment of criteria for LPFM license eligibility -- to allow individuals, as well as organizations, to gain licenses
- (13) Prompt initiation of the long overdue "filing window" for LP-10 stations
- (14) An end to the current "guess-a-frequency" procedure for LPFM applicants -- to be replaced by a "frequency pooling" approach which allows the best LPFM applicants to compete for licenses across an entire service area
- (15) Protection of Amateur Radio Service operators, Citizens Band users, shortwave listeners and broadcasters, radio astronomers, military communicators over the MARS system and others through decisive rejection of Broadband Over Powerlines (BPL) technology -- which is currently under consideration in FCC Docket 03-104
- (16) Pre-emption of antenna regulation by Homeowners' Associations (HOAs) and/or local government zoning authorities -- to the extent necessary to prevent HOAs and/or local governments from banning Amateur Radio equipment ... shortwave transmitters and receivers ... Citizens' Band equipment owned by members of Radio Emergency Assistance Communications Teams (REACT) ... and/or other radio gear which can be used by citizens for emergency communications
- (17) Full consideration of making additional frequencies available for *individual* broadcasters, as requested in the Petition For Notice Of Inquiry that was recently filed by the Minnesota-based CITIZENS BROADCAST BAND DISCUSSION GROUP (CBBDG)

#### **4 Actions Which The FCC Should Urge Congress To Take**

We urge the Commission to urge Congress to take the following 4 actions:

- (18) As recommended by the MITRE Corporation, in its recently released Report to the FCC on alleged interference from LPFM stations, *and* as further recommended by THE AMHERST ALLIANCE (and many others) in numerous filings in FCC Docket 99-25, action to repeal the third adjacent channel spacing requirement that Congress imposed upon LPFM stations in December of 2000
- (19) As a primary priority, action to amend the current statutory requirement for mandatory auctions in the case of all commercial radio station licenses -- in order to exempt commercial radio stations with power levels of 250 watts or less and tower heights of 100 meters or less: a “revenue neutral” move that would create *the option* of future FCC approval for commercials on LPFM stations and/or LPAM stations
- (20) As a secondary priority, action to establish a similar statutory exemption from mandatory auctions in the case of small commercial stations with power levels of 25,000 watts or less and tower heights of 100 meters or less
- (21) *If* the Commission is unwilling to take action, using its own discretionary authority, to ban the bans on emergency communications equipment by many HOAs and some local zoning authorities, Congressional action to adopt the protective legislation introduced by Representative Steven Israel (D-NY) -- preferably in an expanded form which protects shortwave users, and Citizens’ Band users who belong to REACT, as well as Amateur Radio Service operators

## CONCLUSIONS

THE AMHERST ALLIANCE urges the Localism Task Force, and the entire Federal Communications Commission, to pursue and achieve all of the public policy recommendations we have presented today.

Respectfully submitted,

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